



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-880]

### **Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Notice of Court Decision Not in Harmony with the Final Results in the Antidumping Duty Administrative Review; Notice of Amended Final Results**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** On November 23, 2022, the U.S. Court of International Trade (CIT) issued its final judgment in *HiSteel Co., Ltd., and Kukje Steel Co., Ltd. v. United States*, Court No. 20-00146, sustaining the U.S. Department of Commerce's (Commerce) remand results pertaining to the first administrative review of the antidumping duty order on heavy walled rectangular welded carbon steel pipes and tubes (HWR) from the Republic of Korea (Korea) covering the period of review (POR), September 1, 2017, through August 31, 2018. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results in the administrative review and that Commerce is amending the final results with respect to the dumping margins assigned to HiSteel Co., Ltd. (HiSteel) and Kukje Steel Co., Ltd. (Kukje).

**DATES:** Applicable December 3, 2022.

**FOR FURTHER INFORMATION CONTACT:** Alice Maldonado, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-4682.

### **SUPPLEMENTARY INFORMATION:**

#### Background

On July 10, 2020, Commerce published its *Final Results* in the 2017-2018 administrative

review of HWR from Korea.<sup>1</sup>

HiSteel and Kukje appealed Commerce's *Final Results* to the CIT. On September 23, 2021, the CIT remanded the *Final Results* to Commerce, rejecting Commerce's particular market situation (PMS) determination, the resultant application of the PMS adjustment to the cost of production (COP), and the PMS adjustment.<sup>2</sup>

In its remand redetermination, issued in December 2021, Commerce, under protest, determined that there is no PMS that distorts the COP of HWR and recalculated the weighted-average dumping margins for HiSteel and Kukje without the PMS adjustment to the COP for the sales-below-cost test.<sup>3</sup> As a result, Commerce calculated revised weighted-average dumping margin for HiSteel and Kukje of 9.90 and 1.91 percent, respectively. The CIT sustained Commerce's remand redetermination.<sup>4</sup>

#### Timken Notice

In its decision in *Timken*,<sup>5</sup> as clarified by *Diamond Sawblades*,<sup>6</sup> the U.S. Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of a court decision that is not "in harmony" with a Commerce determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's November 23, 2022 judgment in this case constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*.

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<sup>1</sup> See *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 85 FR 41538 (July 10, 2020) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM).

<sup>2</sup> See *HiSteel Co., Ltd., and Kukje Steel Co., Ltd. v. United States*, Slip Op. 21-126, Court No. 20-00146 (CIT 2021).

<sup>3</sup> See *Final Results of Redetermination Pursuant to Court Remand, HiSteel Co., Ltd., and Kukje Steel Co., Ltd. v. United States*, Court No. 20-00146 (CIT 2021), dated December 15, 2021, at 1.

<sup>4</sup> See *HiSteel Co., Ltd., and Kukje Steel Co., Ltd. v. United States*, Slip Op. 22-129, Court No. 20-00146 (CIT 2022).

<sup>5</sup> See *Timken Co. v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*).

<sup>6</sup> See *Diamond Sawblades Mfrs. Coal. v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

### Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to HiSteel and Kukje as follows:

<b>Exporter/Producer</b>	<b>Weighted-Average Dumping Margin (percent)</b>
HiSteel Co., Ltd.	9.90
Kukje Steel Co., Ltd.	1.91

### Cash Deposit Requirements

Because HiSteel and Kukje have a superseding cash deposit rate, *i.e.*, there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rate.

### Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that were produced and/or exported by HiSteel Co., Ltd. or Kukje Steel Co., Ltd. and were entered, or withdrawn from warehouse, for consumption during the period September 1, 2017, through August 31, 2018. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event that the CIT's ruling is not appealed or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess antidumping duties on unliquidated entries of subject merchandise produced and/or exported by HiSteel or Kukje, in accordance with 19 CFR 351.212(b). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate is not zero or *de minimis*. Where an importer-specific *ad valorem* assessment rate is zero or *de minimis*,<sup>7</sup> we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

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<sup>7</sup> See 19 CFR 351.106(c)(2).

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: February 16, 2023.

Lisa W. Wang,  
Assistant Secretary  
for Enforcement and Compliance.

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